



South Florida Water Management District

MINUTES GOVERNING BOARD WORKSHOP

November 12, 2008

1:00 PM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

Eric Buermann, Chair

Michael Collins

Charles Dauray

Shannon Estenoz

Melissa Meeker

Jerry Montgomery

Patrick Rooney

Members Absent:

Paul C. Huck Jr.

1. **Call to Order** - Eric Buermann, Chairman, Governing Board

Mr. Buermann called the meeting to order at 1:05 pm.

2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board

Mr. Collins led the group in the Pledge of Allegiance.

3. **Approval of Minutes**

Approval of the Minutes from the October 8, 2008, Workshop, and the October 9, 2008, Business meetings held in West Palm Beach, Florida

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 3

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Melissa Meeker, Patrick Rooney. Motion passed.

4. **Agenda Addendum** - Annette Carter, Director, Office of Governing Board and Executive Services

Annette Carter, Director, Office of Governing Board and Executive Service announced there were no changes to the agenda.

5. Abstentions by Board Members from items on the Workshop Agenda

There were no abstentions by Board members.

6. Pull Items for Discussion from the Consent Agenda

Ms. Meeker pulled Consent Agenda item 26.

Ms. Estenoz pulled Consent Agenda item 22.

Mr. Dauray pulled Regulatory Consent Agenda Item 13, Page 3, #2, Naples Reserve Golf Club - Application No. 071128-5; Item 13, Page 3, #3, Naples Reserve Golf Club - Application No. 050222-29. Mr. Dauray also pulled Regulatory Consent Agenda Item 13, Page 9, #3, Corkscrew Excavation - Application 080530-10 but that agenda item has been postponed.

Water Resources

7. 'River of Grass' Project Update - Ruth Clements, Director, Land Acquisition Department

Ruth Clements, Director, Land Acquisition Department, provided information on the land-only contract for the U.S. Sugar land acquisition:

- Purchase of land and associated water conveyance structures at \$1.34 Billion.
- Prospective lease arrangement for lands.
- Processing facilities remain in private ownership.

Ms. Clements reported on the due diligence reports of the appraisals, environmental assessments, and the title and survey work.

Mr. Collins commented on the timeframe for reviewing the contract, public comment, receiving and the fiduciary responsibility of the Board.

Mr. Dauray had concerns about the timeframe for reviewing the contract.

Mr. Montgomery also had concerns on the timeline for reviewing the materials provided to the Board.

Ms. Wehle reported there will be a Governing Board meeting on December 2nd and a Governing Board meeting on December 15 and 16 to discuss the U.S. Sugar land acquisition.

Mr. Dauray commented on the land-only purchase, the environment, and the economic impacts.

Ms. Meeker commented on economic assurances to the Glades community.

Mr. Collins provided comment on the economy, the budget, and market impacts regarding the acquisition.

Ms. Estenoz discussed the uncertainty of the footprint and ensuring the public process. She also discussed the environmental and economic side of the contract. Ms. Estenoz commented on the leasing of the property.

Mr. Montgomery requested expert analysis of the appraisal documents.

Mr. Dauray commented on a filter marsh on the property and compliance with water quality standards.

Mr. Collins commented on the water quality standards for the Everglades.

Paul Dumars, Chief Financial Officer, commented on the financing for the land-only contract:

- Reduces cost.
- Reduces financing required.
- Reduces debt service payment.

Mr. Dumars reported on the supplemental resolution staff will bring to the Board on November 13th, 2008.

Mr. Montgomery questioned the cost analysis of the appraisals with and without the assets.

Ray Palmer, Chief Appraiser, reported on the appraisal of agricultural lands and tangible assets. Mr. Palmer also reported on what is not included in the land-only appraisals, and the key appraisal differences.

Mr. Collins commented on the EAA permits, restoration footprints, and why he requested the fairness opinion.

Mr. Dauray commented on highest and best use of the land vs. agricultural use of the land.

Mr. Montgomery commented on the appraisals and the size/scope of this land deal.

Mr. Palmer provided additional information on the appraisal reports.

There was discussion on the types of lands and their values.

Public Comment: Molli Chamness, Mayor, City of Clewiston, thanked the Board for their due diligence on this land acquisition. Mayor Chamness said a economic transition plan is critical.

Public Comment: Kevin McCarthy, Hendry County Commissioner, thanked the Board for their comments and concerns regarding the U.S. Sugar land acquisition. Commissioner McCarthy commented on the economical impacts to the Glades community.

Executive Office

8. Overview of Chapter 373, and Chapter 403, Florida Statutes, (Continued), Site Certifications - Ruth Holmes, Sr. Attorney, Office of Counsel (ext. 6753)

Ruth Holmes, Sr. Attorney, Office of Counsel, presented an overview of Chapter 373 and Chapter 403, Florida Statutes, Site Certifications.

Ms. Holmes reported on Electrical Power Plant Siting Act (PPSA) which includes site certifications for power plants, electrical transmission lines and solar plants.

Ms. Holmes focused on the certification process for power plant sites.

Ms. Holmes reported on the expansion of the Turkey Point Nuclear Plant.

Public Comment: Martha Musgrove, Decision Makers Forum, commented on the standards for approval conditions.

Operations and Maintenance

9. Final Update on Lake Okeechobee Emergency Actions for Structure Stability - Cled Weldon, Deputy Department Director, Field Operations Central (ext. 6282)

Kathy Collins, Central Field Operations, presented the final update on the structure stability for Lake Okeechobee's Emergency Actions. Ms. Collins reported on the S-65 scour hole, S-72 tailwater weir and pumps, S-71 tailwater weir, and S-65E tailwater weir.

10. Water Conditions Report - Susan Sylvester, Director, Operations Control Department (ext. 6152)

Susan Sylvester, Director, Operations Control Department, presented a water conditions report. Ms. Sylvester reported on the wet season rainfall and dry season rainfall accumulations.

Kim Taplin, USACE, reported on water discharges from the L-29 canal.

11. Ecological Conditions Report - Susan Gray, Deputy Director, Watershed Management Department (ext. 6919)

Susan Gray, Deputy Director, Watershed Management Department, presented information on the ecological conditions for the Kissimmee River and the increased amount of wading birds in the area.

Dr. Gray reported on the submerged aquatic vegetation in Lake Okeechobee, Taylor Creek STA, and the ecological condition in the St. Lucie and the Caloosahatchee estuaries.

Dr. Gray reported on the removal of exotic plants in Rotenberger.

Executive Office

12. Closed Door Session

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 022974 XXXX MB. (Sheryl. G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 022974 XXXX MB. (Sheryl. G. Wood, Ext. 6976)

Chair Buermann announced the Board would recess to Closed-Door Session at 3:20 pm. He stated they would reconvene the meeting in approximately 90 minutes.

Chair Buermann reconvened the meeting at 4:40 pm.

Ms. Wood announced no recommendations on this case other than to proceed to litigation.

- 13.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 031569 XXXX MB. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 031569 XXXX MB. (Sheryl G. Wood, Ext. 6976)

Ms. Wood announced no recommendations on this case other than proceed with litigation.

- 14.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Cutler Properties, LC v. South Florida Water Management District, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 08-46701 CA 5. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Cutler Properties, LC v. South Florida Water Management District, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 08-46701 CA 5. (Sheryl G. Wood, Ext. 6976)

Ms. Wood announced that action would be taken on this agenda item.

Michael Compango, Sr. Attorney, presented the requested motion:

- Direct permitting staff to continue to process the pending environmental resource permit for the property owned by Cutler Properties LC.
- Governing Board to conduct a workshop for the region.
- Direct legal staff to pursue settlement options.

Howard Nelson, attorney, representing the applicant, stated he looks forward to working with staff and counsel to resolve the issues.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to Approve the following item(s): 14

Vote called. Voting yes: Shannon Estenoz, Melissa Meeker, Eric Buermann, Michael Collins, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

- 15.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. Cutler Bay Venture, LLC, and Miami-Dade County Tax Collector, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. Cutler Bay Venture, LLC, and Miami-Dade County Tax Collector, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl G. Wood, Ext. 6976)

Ms. Wood reported no recommendations other than to proceed to litigation.

- 16.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

17. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

18. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

19. Public Comment

There was no public comment.

20. Adjourn

Chair Buermann adjourned the meeting at 4:45 pm.

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 20

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Michael Collins, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.